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REMARKS/ARGUMENTS

In view of the following remarks, the applicants respectfully submit that the pending claims are not anticipated under 35 U.S.C. § 102 and are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicants respectfully request that the Examiner contact the undersigned to schedule a telephone Examiner Interview before issuing any further action on the merits.

The applicants will now address each of the issues raised in the outstanding Office Action.

Rejections under 35 U.S.C. § 102

Claims 17-20 and 50-53 are rejected under 35 U.S.C. § 102(b), as being anticipated by U.S. Patent No. 5,933,811 ("the Angles patent"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claim 17 (and similarly, independent claim 50) is not anticipated by the Angles patent at least because the Angles patent does not teach (1) sending, by a content provider including at least one computer, ad spot availability information for a pageview to be provided in response to a page request, to a proxy

*representing at least two of (i) a first ad network, (ii) a second ad network, (iii) a first ad agency, and (iv) a second ad agency, wherein the content provider is not the proxy, and (2) receiving, by the content provider, information concerning at least one ad corresponding to the ad spot availability information from the proxy, wherein the information concerning **the at least one ad originates from an advertiser, and wherein the advertiser is different from the proxy and the content provider**, in combination with other features of claim 17.*

In rejecting claim 17, the Examiner contends that column 21, lines 15-30 of the Angles patent teaches the aforementioned act of sending. (See, Paper No. 20091210, page 3.) Column 21, lines 15-30 of the Angles patent, in relevant part, states that "the advertising module 62 determines which advertiser should pay for the customized advertisement 30 [Emphasis added.]." Thus, the Examiner apparently contends that the advertising module of the Angles patent teaches the proxy as recited in claim 17. The applicants respectfully disagree.

As the Examiner noted, the cited passage does not disclose ad network or ad agency being represented, but that a "plurality of advertisers are represented by the ad server [Emphasis added.]." (Paper No. 20091201, page 3; note that column 21, lines 15-30 of the Angles patent recites an advertising module, and not the ad server mentioned by the Examiner.) This is different from a proxy representing at least two of **ad networks** and **ad agencies** in exemplary embodiments consistent with the invention of claim 17. Specifically, independent claim 17, recites that the "ad originates from **an advertiser** [Emphasis added.]" distinct from the recited **ad network**

or **ad agency**. This distinction is described in the present application as follows:

an entity through which different **advertisers** (and often many different **advertisers**) can purchase ad spots may be referred to as "**an advertiser network**," or more briefly, an "**ad network**." [Emphasis added.]

{Paragraph [0008] of the present application) Therefore, the Angles patent clearly fails to disclose two of ad networks and ad agencies through which different advertisers reach the advertising module. Thus, independent claim 17 (and similarly, independent claim 50) is not anticipated by the Angles patent for at least this reason. Since claims 18-20 directly or indirectly depend from claim 17 and since claims 51-53 directly or indirectly depend from claim 50, these claims are similarly not anticipated by the Angles patent.

Claims 21-33 and 54-66 are rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent Application Publication No. 2004/0103024 ("the Patel publication"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claim 21 (and similarly, independent claim 54) is not anticipated by the Patel publication at least because the Patel publication does not teach (1) **accepting, by a proxy** including at least one computer, **ad availability information** from an advertiser, wherein the ad availability information is associated with an ad to be served, and wherein the advertiser is not the proxy,

and (2) multicasting, by the proxy, requests for offers using the accepted ad availability information associated with the ad to be served to at least two content owners, wherein the at least two content owners are different from the advertiser and the proxy, in combination with other features of claim 21.

In rejecting claim 21, the Examiner contends that paragraphs [0044] and [0045] of the Patel publication teach the aforementioned act of multicasting. (See Paper No. 20091210, pages 4 and 5.) The applicants respectfully disagree.

The Patel publication discloses a "many to many" online media **exchange** system for publishers and advertisers. In this exchange environment, the publishers logon/register to review the "offers on the exchange" and accept or reject the offers on the offer screen. (See, e.g., paragraph [0051] and elements 320, 329 and 330 of Figure 6 of the Patel publication.) Thus, the Examiner apparently contends that the **exchange system** of the Patel publication discloses the **proxy** as recited in claim 21. The applicants respectfully disagree because the exchange system in the Patel publication does not multicast advertiser offers to publishers. By contrast, the claimed proxy multicasts requests for offers to at least two content owners in exemplary embodiments consistent with the invention of claim 21.

Thus, independent claim 21 (and similarly, independent claim 54) is not anticipated by the Patel publication. Since claims 22-33 directly or indirectly depend from claim 21 and since claims 55-66 directly or indirectly depend from claim 54, these claims are similarly not anticipated by the Patel publication.

Rejections under 35 U.S.C. § 103

Claims 1-16 and 34-49 stand rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,324,519 ("the Eldering patent") in view of U.S. Patent Application Publication No. 2002/0116313 ("the Detering publication"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claim 1 (and similarly, independent claim 34) is not rendered obvious by the Eldering patent and the Detering publication at least because the cited references, either individually or in combination, do not teach or make obvious (1) **accepting, by a proxy, ad spot availability information for a pageview to be provided in response to a page request**, the ad spot availability information accepted from a first party, wherein the first party is not the proxy, and (2) **multicasting, by the proxy, ad spot requests for offers using the accepted ad spot availability information to at least two second parties**, wherein the at least two second parties include at least two ad networks that are different from the first party and the proxy, in combination with other features of claim 1. In addition, the Examiner does not provide a legally sufficient rationale for combining the alleged teachings of these references. Each of these issues is addressed below.

In maintaining the rejection of claim 1, the Examiner contends that column 11, lines 15-25 of the Eldering patent discloses the act of accepting, as

claimed (sans the wherein clause). (See Paper No. 20091210, pages 8 and 9.) The applicants respectfully disagree.

Column 11, lines 15-25 of the Eldering patent discloses a cable operator broadcasting a commercial spot availability a few minutes before the commercial spot is available. Thus, the Examiner apparently contends that the **cable show** of the Eldering patent discloses the **pageview** as recited in claim 1. The cable show of the Eldering patent is not a pageview, and is not broadcast **in response to a page request**, as recited in claims 1 and 34.

Second, although column 12, lines 10-25 the Eldering patent discusses delivery of targeted advertisements over the Internet, as the Examiner previously acknowledged, this section also fails to disclose the features of exemplary embodiments, wherein the proxy **multicasts** request for offers **to at least two second parties using the ad spot availability information** (accepted from the first party).

The Detering publication fails to remedy these foregoing deficiencies. The device (the Moderating, Processing, and Database Unit 70) of the Detering publication "records the bids for reaching that audience on an individual basis and updates the bid accounts 2 in database 71 accordingly, wherein the advertiser can also specify rules for automated determination of his bids." (Paragraph [0024] of the Detering publication) The Detering publication then "determines whether the requested document's content is of any particular relevance to the bids in the bid amount 2 of set 71:11 and temporarily adjusts the bids accordingly.

Subsequently, the highest bid is determined . . . and . . . the advertising message of the winning bid [is placed] into the document to be presented to user 11." (Paragraph [0028] of the Detering publication) Since the information needed to generate bids is **already stored**, the Detering publication has no need to multicast request for bids to a plurality of advertisers. (See paragraph [0028] of the Detering publication.)

Finally, the Examiner contends that column 10, lines 35-55 of the Eldering patent teaches "accepting offers from advertisers 'dynamically'", thereby concluding that "the prior arts are **combinable** and teach Applicant's claimed invention [Emphasis added.]." (Paper No. 20091210, page 12) This second contention is in response to the applicants' prior argument (taken out of context) that the device in the Detering publication does not dynamically multicast ad spot requests for offers. (See pages 22 and 23 of the Amendment filed on October 5, 2009.) The applicants respectfully disagree.

The Examiner's statement that "prior arts are **combinable**" is insufficient to support an obviousness rejection. Furthermore, the Examiner concludes that:

it would be have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Eldering's content provider such as cable operator (see col 3, lines 40-65) would function as a proxy by handling a plurality of content providers and a plurality advertisers, as taught by Detering in order that said proxy handles the bidding for placing ads into content providers sites."

(Paper No. 20091210, page 8) This statement is not a proper rational to show obviousness. (See KSR Int'l Co. v. Teleflex, Inc., 550 U.S. 398 (2007); see also, Legal Concept of Prima Facie Obviousness, M.P.E.P. § 2142; and Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in KSR International Co. v. Teleflex Inc., OG Notices: 06 Nov 2007.) For example, what is the identified problem in the Eldering patent (that is, why is the Eldering patent ready for improvement?), and how does the Detering publication provide a known technique (applicable to the system in the Eldering patent) that would have yield predictable results and resulted in an improved system? Whether or not references are "combinable" does not address these types of inquiries.

Thus, independent claims 1 and 34 are not rendered obvious by the cited references for at least the foregoing reasons. Since claims 2-16 and 35-49 directly or indirectly depend from claims 1 and 34 respectively, these claims are similarly not rendered obvious by the cited references as well.

Conclusion

In view of the foregoing remarks, the applicants respectfully submit that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.

Any arguments made in this amendment pertain **only** to the specific aspects of the invention **claimed**. Any claim amendments or cancellations, and any arguments, are made


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without prejudice to, or disclaimer of, the applicants' right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

Since the applicants' remarks, amendments, and/or filings with respect to the Examiner's objections and/or rejections are sufficient to overcome these objections and/or rejections, the applicants' silence as to assertions by the Examiner in the Office Action and/or to certain facts or conclusions that may be implied by objections and/or rejections in the Office Action (such as, for example, whether a reference constitutes prior art, whether references have been properly combined or modified, whether dependent claims are separately patentable, etc.) is not a concession by the applicants that such assertions and/or implications are accurate, and that all requirements for an objection and/or a rejection have been met. Thus, the applicants reserve the right to analyze and dispute any such assertions and implications in the future.

Respectfully submitted,

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